

ENROLLED SENATE  
BILL NO. 1923

By: Lamb of the Senate

and

Sullivan of the House

An Act relating to children; amending Section 2, Chapter 198, O.S.L. 2004, as amended by Section 1, Chapter 121, O.S.L. 2005, Section 40, Chapter 116, O.S.L. 2006 and Section 46, Chapter 116, O.S.L. 2006 (10 O.S. Supp. 2007, Sections 7003-8.8, 7700-607 and 7700-621), which relate to paternity proceedings and genetic testing; updating statutory references; allowing certain proceedings under specified circumstances; stating requirements for certain order; modifying certain notice requirement; amending 12 O.S. 2001, Section 95, as last amended by Section 1, Chapter 159, O.S.L. 2005 (12 O.S. Supp. 2007, Section 95), which relates to limitation of actions; modifies limitation for an action to establish paternity; amending 43 O.S. 2001, Section 109.2, which relates to paternity determination; modifying statutory reference; repealing 10 O.S. 2001, Section 84, which relates to liability of father for expenses of mother; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 2, Chapter 198, O.S.L. 2004, as amended by Section 1, Chapter 121, O.S.L. 2005 (10 O.S. Supp. 2007, Section 7003-8.8), is amended to read as follows:

Section 7003-8.8 A. 1. When paternity of an alleged or adjudicated deprived child is at issue, the court, within six (6)

months after the filing of a deprived petition, shall either establish paternity or defer the issue of paternity establishment to the appropriate administrative or district court for any child for whom paternity has not been legally established according to Section ~~70~~ 7700-101 et seq. of this title.

2. When paternity is an issue, an alleged father and mother of the child named in a deprived petition shall be given notice in the petition and summons that paternity may be established in a deprived action. The Oklahoma Department of Human Services Child Support Enforcement Division shall proceed with paternity establishment for any case deferred to the administrative or other district court division under this subsection.

3. After the establishment of paternity, the court shall address the issue of current child support pursuant to subsection B of this section. In addition, the court may:

- a. order the father to pay child support for past months when no child support order was in effect according to the provisions of Section 83 of this title, or
- b. reserve or refer the issue of prior support to the Oklahoma Department of Human Services Child Support Enforcement Division.

4. The order establishing paternity shall be filed as a separate document and shall not be confidential. The court clerk of the district court where the child support order has been filed shall provide, upon request, a copy of the order establishing paternity to a representative of the Oklahoma Department of Human Services Child Support Enforcement Division. A court order for the release of the order establishing paternity or other information contained in the court record pertaining to paternity and child support shall not be required. The order may be captioned with a different case style in order to establish and enforce a child support order in an action other than the deprived proceeding.

B. 1. Each parent of any child named in a deprived petition shall be given notice in the petition and summons that child support may be ordered or modified in the deprived action.

2. Within six (6) months after the filing of a deprived petition, the court shall either address the issue of child support or defer the issue of establishment or enforcement of child support to the appropriate administrative or district court. The Oklahoma Department of Human Services Child Support Enforcement Division shall proceed with the establishment or enforcement of child support orders for any case deferred to the administrative or other district court division under this subsection.

3. a. If there is an existing order for child support, the existing order shall remain in effect unless the court finds the existing order is not in the best interests of the child or children involved.
- b. The court shall use the child support guidelines as provided for in Sections 118 and 119 of Title 43 of the Oklahoma Statutes in determining the amount each parent is to pay for care and maintenance of a child and issue an order describing the finding of the court.
- c. The court may deviate from the child support guidelines when it is determined necessary in order for the parent to meet the obligations of a court-imposed individual treatment and service plan or for other reasons as the court deems appropriate. If the court deviates from the amount of child support indicated by the child support guidelines, the court shall make specific findings of fact supporting such action.
- d. Each parent shall be individually ordered to pay his or her percentage of the total monthly child support obligation including parents who reside together.
- e. The court shall order the parent to provide medical insurance whenever the parent has insurance available through employment or other group plan, regardless of whether insurance is available at the time the order is entered.

- f. The child support order shall contain an immediate income assignment provision pursuant to Section 115 of Title 43 of the Oklahoma Statutes.
- g. A child support computation form as provided for in Section 120 of Title 43 of the Oklahoma Statutes shall be signed by the judge and incorporated as a part of the child support order.
- h.
  - (1) A standard child support order form shall be used in the deprived action. The form shall be prescribed by the Oklahoma Department of Human Services Child Support Enforcement Division and shall be published by the Administrative Office of the Courts.
  - (2) The child support order shall be filed as a separate document and shall not be confidential.
  - (3) The court clerk of the district court where the child support order has been filed shall provide, upon request, a copy of the support order to a representative of the Oklahoma Department of Human Services Child Support Enforcement Division. A court order for the release of the child support order or other information contained in the court record pertaining to child support shall not be required.
  - (4) The order may be captioned with a different case style in order to enforce the child support order in an action other than the deprived proceeding.
- i. The child support order may be modified upon a material change in circumstances.
- j. The child support order may be enforced by any method allowed by law.
- k. After a deprived action is dismissed, the most recent child support order entered in the deprived action shall remain in full force and effect, unless the

judge presiding over the deprived action orders otherwise. If there was no prior administrative or district court case, the deprived action child support order shall be docketed and filed in a new district court family division action and enforced for current child support and arrearages. If the judge presiding over the deprived action modified a preexisting child support order or if there was an existing administrative or district court case, the child support order entered in the deprived action shall be filed in the existing case and enforced for current child support and arrearages. The child support order may be modified after being docketed in district court.

C. All child support payments shall be paid through the Oklahoma Centralized Support Registry as provided for in Section 413 of Title 43 of the Oklahoma Statutes.

D. When a child's placement is changed from one parent or caretaker to another pursuant to the Oklahoma Children's Code, the change in placement shall transfer child support payments to the new caretaker unless the caretaker is receiving foster care payments or Temporary Assistance to Needy Families payments for the care of the child. Child support payments to the caretaker shall terminate when the child no longer resides with the caretaker.

E. The Department of Human Services shall promulgate rules necessary to implement the provisions of this section.

SECTION 2. AMENDATORY Section 40, Chapter 116, O.S.L. 2006 (10 O.S. Supp. 2007, Section 7700-607), is amended to read as follows:

Section 7700-607. A. Except as otherwise provided in subsection B of this section, a proceeding brought by a presumed father, the mother, or another individual to adjudicate the parentage of a child having a presumed father shall be commenced not later than two (2) years after the birth of the child.

B. A proceeding seeking to disprove the father-child relationship between a child and the child's presumed father may be

maintained at any time in accordance with Section 7700-608 of this title if the court, prior to an order disproving the father-child relationship, determines that:

1. The presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; and

2. The presumed father never openly held out the child as his own.

C. A proceeding seeking to disprove the father-child relationship between a child and the child's presumed or acknowledged father may be maintained at any time if the court determines that the biological father, presumed or acknowledged father, and the mother agree to adjudicate the biological father's parentage in accordance with Sections 7700-608 and 7700-636 of this title. If the presumed or acknowledged father or mother is unavailable, the court may proceed if it is determined that diligent efforts have been made to locate the unavailable party and it would not be prejudicial to the best interest of the child to proceed without that party. In a proceeding under this section, the court shall enter an order either confirming the existing father-child relationship or adjudicating the biological father as the parent of the child. A final order under this section shall not leave the child without an acknowledged or adjudicated father.

SECTION 3. AMENDATORY Section 46, Chapter 116, O.S.L. 2006 (10 O.S. Supp. 2007, Section 7700-621), is amended to read as follows:

Section 7700-621. A. Except as otherwise provided in subsection C of this section, a record of a genetic-testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within fourteen (14) days after its receipt by the objecting party mailing and cites specific grounds for exclusion. The admissibility of the report is not affected by whether the testing was performed:

1. Voluntarily or pursuant to an order of the court or the Department of Human Services; or

2. Before or after the commencement of the proceeding.

B. A party objecting to the results of genetic testing may call one or more genetic-testing experts to testify in person or by telephone, videoconference, deposition, or another method approved by the court. Unless otherwise ordered by the court, the party offering the testimony bears the expense for the expert testifying.

C. If a child has a presumed, acknowledged, or adjudicated father, the results of genetic testing are inadmissible to adjudicate parentage unless performed pursuant to an order of the court under Sections ~~24~~ 7700-502 and ~~41~~ 7700-608 of this ~~act~~ title.

D. Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child which are furnished to the adverse party not less than ten (10) days before the date of a hearing are admissible to establish:

1. The amount of the charges billed; and
2. That the charges were reasonable, necessary, and customary.

SECTION 4. AMENDATORY 12 O.S. 2001, Section 95, as last amended by Section 1, Chapter 159, O.S.L. 2005 (12 O.S. Supp. 2007, Section 95), is amended to read as follows:

Section 95. A. Civil actions other than for the recovery of real property can only be brought within the following periods, after the cause of action shall have accrued, and not afterwards:

1. Within five (5) years: An action upon any contract, agreement, or promise in writing;

2. Within three (3) years: An action upon a contract express or implied not in writing; an action upon a liability created by statute other than a forfeiture or penalty; and an action on a foreign judgment;

3. Within two (2) years: An action for trespass upon real property; an action for taking, detaining, or injuring personal property, including actions for the specific recovery of personal property; an action for injury to the rights of another, not arising

on contract, and not hereinafter enumerated; an action for relief on the ground of fraud - the cause of action in such case shall not be deemed to have accrued until the discovery of the fraud;

4. Within one (1) year: An action for libel, slander, assault, battery, malicious prosecution, or false imprisonment; an action upon a statute for penalty or forfeiture, except where the statute imposing it prescribes a different limitation;

5. An action upon the official bond or undertaking of an executor, administrator, guardian, sheriff, or any other officer, or upon the bond or undertaking given in attachment, injunction, arrest, or in any case whatever required by the statute, can only be brought within five (5) years after the cause of action shall have accrued;

6. An action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse incidents or exploitation as defined by Section 7102 of Title 10 of the Oklahoma Statutes or incest can only be brought within the latter of the following periods:

- a. within two (2) years of the act alleged to have caused the injury or condition, or
- b. within two (2) years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by the act or that the act caused the injury for which the claim is brought.

Provided, however, that the time limit for commencement of an action pursuant to this paragraph is tolled for a child until the child reaches the age of eighteen (18) years or until five (5) years after the perpetrator is released from the custody of a state, federal or local correctional facility or jail, whichever is later. No action may be brought against the alleged perpetrator or the estate of the alleged perpetrator after the death of such alleged perpetrator, unless the perpetrator was convicted of a crime of sexual abuse involving the claimant. An action pursuant to this paragraph must be based upon objective verifiable evidence in order for the victim to recover damages for injuries suffered by reason of such sexual abuse, exploitation, or incest. The evidence should

include both proof that the victim had psychologically repressed the memory of the facts upon which the claim was predicated and that there was corroborating evidence that the sexual abuse, exploitation, or incest actually occurred. The victim need not establish which act in a series of continuing sexual abuse incidents, exploitation incidents, or incest caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse, exploitation, or incest. Provided further, any action based on intentional conduct specified in paragraph 7 of this section must be commenced within twenty (20) years of the victim reaching the age of eighteen (18);

7. An action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of criminal actions, as defined by the Oklahoma Statutes, may be brought against any person incarcerated or under the supervision of a state, federal or local correctional facility on or after November 1, 2003:

- a. at any time during the incarceration of the offender for the offense on which the action is based, or
- b. within five (5) years after the perpetrator is released from the custody of a state, federal or local correctional facility, if the defendant was serving time for the offense on which the action is based;

8. An action to establish paternity and to enforce support obligations can be brought any time before the child reaches the age of eighteen (18);

9. An action to establish paternity can be brought by a child ~~if commenced within one (1) year after the child reaches the age of eighteen (18)~~ in accordance with Section 7700-606 of Title 10 of the Oklahoma Statutes;

10. Court-ordered child support is owed until it is paid in full and it is not subject to a statute of limitations;

11. All actions filed by an inmate or by a person based upon facts that occurred while the person was an inmate in the custody of one of the following:

- a. the State of Oklahoma,
- b. a contractor of the State of Oklahoma, or
- c. a political subdivision of the State of Oklahoma,

to include, but not be limited to, the revocation of earned credits and claims for injury to the rights of another, shall be commenced within one (1) year after the cause of action shall have accrued; and

12. An action for relief, not hereinbefore provided for, can only be brought within five (5) years after the cause of action shall have accrued.

B. Collection of debts owed by inmates who have received damage awards pursuant to Section 566.1 of Title 57 of the Oklahoma Statutes shall be governed by the time limitations imposed by that section.

SECTION 5. AMENDATORY 43 O.S. 2001, Section 109.2, is amended to read as follows:

Section 109.2 Except as otherwise provided by ~~Section 3 of Title 10 of the Oklahoma Statutes~~ Section 7700-607 of Title 10 of the Oklahoma Statutes, in any action concerning the custody of a minor unmarried child or the determination of child support, the court may determine if the parties to the action are the parents of the children. If the parties to the action are the parents of the children, the court may determine which party should have custody of said children, may award child support to the parent to whom it awards custody, and may make an appropriate order for payment of costs and attorney's fees.

SECTION 6. REPEALER 10 O.S. 2001, Section 84, is hereby repealed.

SECTION 7. This act shall become effective November 1, 2008.

Passed the Senate the 12th day of March, 2008.

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Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2008.

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Presiding Officer of the House  
of Representatives